

# Senate Study Bill 3194

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CO=CHAIRPERSONS BEHN  
AND WARNSTADT)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act concerning private sector drug testing.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 6499SC 81  
4 ec/sh/8

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1 1 Section 1. Section 730.5, subsection 1, paragraph b, Code  
1 2 Supplement 2005, is amended to read as follows:  
1 3 b. "Confirmed positive test result" means, except for  
1 4 alcohol testing conducted pursuant to subsection 7, paragraph  
1 5 "f", subparagraph (2), the results of a ~~blood, urine, or oral~~  
1 6 ~~fluid drug~~ test in which the level of controlled substances or  
1 7 metabolites in the ~~specimen sample~~ analyzed meets or exceeds  
1 8 nationally accepted standards for determining detectable  
1 9 levels of controlled substances as adopted by the ~~federal~~  
1 10 ~~United States department of health and human services'~~  
1 11 substance abuse and mental health services administration. If  
1 12 nationally accepted standards for ~~oral fluid~~ tests ~~on a~~  
1 13 ~~particular sample~~ have not been adopted by the ~~federal United~~  
1 14 ~~States department of health and human services'~~ substance  
1 15 abuse and mental health services administration, the standards  
1 16 for determining detectable levels of controlled substances for  
1 17 purposes of determining a confirmed positive test result shall  
1 18 be the same standard that has been ~~established~~ ~~cleared or~~  
1 19 ~~approved~~ by the ~~federal United States department of health and~~  
1 20 ~~human services'~~ food and drug administration for the ~~measuring~~  
1 21 ~~instrument used to perform the oral fluid test~~ ~~particular~~  
1 22 ~~sample testing~~ utilized.  
1 23 Sec. 2. Section 730.5, subsection 1, paragraph k, Code  
1 24 Supplement 2005, is amended to read as follows:  
1 25 k. "Sample" means such sample from the human body capable  
1 26 of revealing the presence of alcohol or other drugs, or their  
1 27 metabolites, ~~which shall include only urine, saliva, breath,~~  
1 28 ~~and blood.~~ However, "sample" does not mean blood except as  
1 29 authorized pursuant to subsection 7, paragraph "l", ~~and does~~  
1 30 ~~not mean hair except for testing conducted on prospective~~  
1 31 ~~employees.~~  
1 32 Sec. 3. Section 730.5, subsection 7, paragraph b, Code  
1 33 Supplement 2005, is amended to read as follows:  
1 34 b. Collection of a ~~urine~~ sample for testing of current  
1 35 employees shall be performed so that the specimen is split  
2 1 into two components at the time of collection in the presence  
2 2 of the individual from whom the sample or specimen is  
2 3 collected. The second portion of the specimen or sample shall  
2 4 be of sufficient quantity to permit a second, independent  
2 5 confirmatory test as provided in paragraph "i". ~~The If the~~  
2 6 ~~sample is urine, the~~ sample shall be split such that the  
2 7 primary sample contains at least thirty milliliters and the  
2 8 secondary sample contains at least fifteen milliliters. Both  
2 9 portions of the sample shall be forwarded to the laboratory  
2 10 conducting the initial confirmatory testing. In addition to  
2 11 any requirements for storage of the initial sample that may be  
2 12 imposed upon the laboratory as a condition for certification  
2 13 or approval, the laboratory shall store the second portion of  
2 14 any sample until receipt of a confirmed negative test result  
2 15 or for a period of at least forty-five calendar days following  
2 16 the completion of the initial confirmatory testing, if the

2 17 first portion yielded a confirmed positive test result.  
2 18 Sec. 4. Section 730.5, subsection 7, paragraph f,  
2 19 subparagraph (2), Code Supplement 2005, is amended to read as  
2 20 follows:  
2 21 (2) Notwithstanding any provision of this section to the  
2 22 contrary, alcohol testing, including initial and confirmatory  
2 23 testing, may be conducted pursuant to requirements established  
2 24 by the employer's written policy. The written policy shall  
2 25 include requirements governing evidential breath testing  
2 26 devices, alcohol screening devices, and the qualifications for  
2 27 personnel administering initial and confirmatory testing,  
2 28 which shall be consistent with regulations adopted as of  
2 29 ~~January 1, 1999~~ March 15, 2005, by the United States  
2 30 department of transportation governing alcohol testing  
2 31 required to be conducted pursuant to the federal Omnibus  
2 32 Transportation Employee Testing Act of 1991.

2 33 EXPLANATION

2 34 This bill concerns private sector drug testing.  
2 35 The bill provides that private sector drug testing may be  
3 1 conducted on any sample capable of revealing the presence of  
3 2 alcohol or other drugs and eliminates the provision  
3 3 restricting drug testing to only samples of urine, saliva,  
3 4 breath, and blood. The bill does provide that drug testing on  
3 5 hair is only permitted for testing of prospective employees.  
3 6 The bill provides that if a standard for a confirmed drug  
3 7 test on a particular sample has not been approved by the  
3 8 federal substance abuse and mental health services  
3 9 administration, then the standard shall be the standard that  
3 10 has been cleared or approved by the federal food and drug  
3 11 administration. Current law provides that the alternative  
3 12 standard be established by the federal food and drug  
3 13 administration.  
3 14 The bill also provides that the requirement for splitting  
3 15 the collection of a urine sample into two components applies  
3 16 to all samples. However, the current provision providing for  
3 17 the size of each split urine sample remains applicable only to  
3 18 tests on urine samples.  
3 19 The bill further provides that the employer's written  
3 20 policy applicable to alcohol testing shall be consistent with  
3 21 federal regulations adopted by the United States department of  
3 22 transportation as of March 15, 2005, instead of the current  
3 23 reference to regulations as of January 1, 1999.  
3 24 LSB 6499SC 81  
3 25 ec:nh/sh/8